



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

APPEALS AND OPINIONS BUREAU

Telephone (518) 776-2009

June 27, 2016

Mr. Craig E. Richardson
Energy & Environment Legal Institute
722 12th Street Northwest, #400
Washington, DC 20005

VIA EMAIL: Richardson@EELegal.org

Re: Appeal re: Freedom of Information Law Request # 160287

Dear Mr. Richardson:

I write in response to your June 13, 2016 administrative appeal letter in the above-referenced Freedom of Information Law (FOIL) matter.

By correspondence dated May 5, 2016, on behalf of the Free Market Environmental Law Clinic and the Energy and Environment Legal Institute you requested the following:

[C]opies of all correspondence, including attachments, which was sent to or from (including also as cc: or bcc:) New York Attorney General Eric Schneiderman, and one or more of the following eight individuals, using either his official or his non-official email and text messaging accounts (e.g., GMail, private cell phone as well as State-provided accounts):

- a) Tom Steyer
- b) Ted White
- c) Matt Pawa
- d) Kamala Harris
- e) John Passacantando
- f) Kurt Davies
- g) Steve Coll

h) Christina Harvey

Which correspondence uses any of these keywords or terms anywhere including in the body or the Subject field(s):

- i) energy
- j) fossil
- k) climate
- l) RICO
- m) Martin Act
- n) fraud
- o) accountability

You stated that you were looking for records between February 1, 2015 “through the date you process this request.”

The Records Access Officer responded to you by letter dated June 10, 2016. He advised you that the Office of the Attorney General had conducted a diligent search and that responsive records were withheld under Public Officers Law § 87(2)(a), CPLR 3101(c), and CPLR 4503(a), as confidential communications between attorney and client or as attorney work product or under Public Officers Law § 87(2)(g) as intra-agency materials.

You administratively appeal the denial.

I note that because your administrative appeal constitutes a request to review the determination made by the Records Access Officer, it does not extend the date before which records must have existed to be considered responsive to your request.

The records responsive to your request were properly withheld. Despite your assertion otherwise, Christina Harvey is an employee of New York State; she is in fact a member of the Attorney General’s Executive staff. See Press Release, Attorney General Eric T. Schneiderman Announces Additional Staff Appointments (Jan. 3, 2011), available at <http://www.ag.ny.gov/press-release/attorney-general-eric-t-schneiderman-announces-additional-staff-appointments>. Correspondence on which the Attorney General and Ms. Harvey are included as sender or recipient, internal to the Office of the Attorney General (OAG), was properly withheld under Public Officers Law § 87(2)(g) as intra-agency materials that are not statistical or factual tabulations or data, instructions to staff that affect the public, final agency policy or determinations, or external audits. The correspondence that included other attorneys of the OAG additionally constituted attorney work product or

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confidential communications between attorney and client, and also was properly withheld under Public Officers Law § 87(2)(a) and CPLR 3101(c) or 4503(a).

This is a final agency determination. Please be advised that judicial review of this determination can be obtained under Article 78 of the Civil Practice Law & Rules.

Very truly yours,



KATHRYN SHEINGOLD
Records Appeals Officer

Cc: Committee on Open Government
OAG Records Access Officer